

**Notice of Allowability**

Application No.

09/694,293

Applicant(s)

KUEHN ET AL.

Examiner

Art Unit

Victor X. Nguyen

3734

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Amendment After Non-Final submitted on 7/2/2007.

2.  The allowed claim(s) is/are 1,4,5,7,10-13,18,20,23-26,28 and 30-33.

3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

**Claims 2,6,8,9,14,16,17,21,22,27 and 29 were canceled** due to election without traverse on 11/4/2004.

**EXAMINER'S COMMENT**

2. The Notice of Allowance is responsive to applicant's amendment filed 7/2/2007. The amendment and arguments, **see pages 7-9**, filed therein has overcome the rejection of claims **1, 18 and 30 under 35 USC 102 (b) and 103(a) mailed on 3/29/2007**. Therefore, the rejection of claims have been withdrawn.
3. The following is a statement of reasons for the indication of allowable subject matter:

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose or suggest a heart valve leaflet fastener comprising one pair of arm, where at least one arm of the pair of arms has a tapered protrusion extending toward the other arm of the pair of arms and the other arm of the at least one pair of arm having a tapered slot for accepting the tapered protrusion therein, where the arms pivot from one orientation to a gripping position with ends of respective paired arms being directed toward each other such that the tapered protrusion positions within the tapered slot to grip the two adjacent tissue heart valve leaflets. As to claim 18, the prior art does not teach the invention including, a heart valve repair instrument comprising a cap that is located distal to the pivot and the pivot is located distal to a shaft, where a flexible rod connects to the cap to provide for movement of the cap relative to the pivot of the gripper and the shaft by pulling the flexible rod, where the cap has an opening that can be positioned over the pivot to lock the arms in a closed position. As to claim 30, the prior art does not teach the invention including, a fastening member comprises a cap being slideable relative to a gripper, where the gripper comprises a plurality of arms radiating from a pivot, with at least a first arm having a tapered spike, and at least a second arm has a plurality of spikes such that a tapered slot is formed between the plurality of spikes, where the pivot is inserted within an opening in the cap to lock the arms in a collapsed gripping position such that the tapered spike positions within the tapered slot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699. The examiner can normally be reached on M-F (8-4.30 P.M.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victor X Nguyen



Examiner

Art Unit 3734

VN VR

9/12/2007

  
MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER